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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,319	03/10/2004	Robert Dana Lundahl	ATR-3	2102
7590	11/28/2006		EXAMINER	
Hung Chang LIN 8 Schindler Ct. Silver Spring, MD 20903			GREENHUT, CHARLES N	
			ART UNIT	PAPER NUMBER
			3652	

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/796,319	<b>Applicant(s)</b> LUNDAHL ET AL.	
	<b>Examiner</b> Charles N. Greenhut	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-10, 12, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**I. Claim Objections**

1. The claims are objected to because the claims do not commence on a separate sheet or electronic page in accordance with 37 CFR 1.52(b)(3). Appropriate correction is required.

**II. Claim Rejections - 35 USC § 112**

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claim 17 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The unsupported subject matter is a “motor roller conveyor.”

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1-5, 7-9, 12, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2.1. With respect to claim 1, the phrase, “where one of the packages is removed from the container” in line 13-14 lacks antecedent basis since the removal of packages from the container is not previously recited.

2.2. With respect to claim 12 it is unclear what is meant by the phrase, "a takeaway belt of the moving carriage" in line 3 since the takeaway belt (10) is disclosed in the specification at page 3 as fixed and not part of the moving carriage (2).

2.3. With respect to claim 17, it is unclear what is meant by the term, "motor roller conveyor" in line 2.

### **III. Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim(s) 10 and 12 is/are rejected under 35 U.S.C. 102(b) as being anticipated by MADAY (US 5,913,655 A).

1.1. With respect to claim 10, MADAY discloses holding a package in a container (18-32), positioning carriage (78) gripping the package with a robotic manipulator on the carriage having and end-of-arm tool (200)/(202), moving the package onto the carriage (78), moving the package to a fixed conveyor (12), identifying and locating with an image sensor (Table Col 9-10), and controlling and moving with a computer (Fig. 9-10)/(Table Col 9-10).

1.2. With respect to claim 12, MADAY additionally discloses the package pulled outward to make contact with and be carried away by the takeaway conveyor to the fixed conveyor (Figs. 1-2).

### **IV. Claim Rejections - 35 USC § 103**

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim(s) 15, 7-9, and 16-17 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over MADAY (US 5,913,655 A) in view of BONNET (US 5,538,391 A).

1.1. With respect to claim 1, MADAY discloses a container (122), manipulator (40)/(42), end of arm tool (200)/(202), conveying system (10) takeaway conveyor (230), a sensor (180)/(182) and computer (Fig. 9-10)/(Table Col 9-10). MADAY fails to disclose the conveyor having two sections connected by a flexible joint. BONNET teaches a conveyor having two sections (718)/(703) with a flexible joint therebetween. It would have been obvious to one of ordinary skill in the art to modify MADAY with the two section conveyor of BONNET in order to remove packages.

1.2. With respect to claim 2-5, 7-9, and 16-17, MADAY additionally discloses an articulating belt conveyor (230)/(232) or slide having a motor and roller, a carriage (74)/(76), frame (86)/(88), lift mechanism (152), the conveying system configured to engage the bottom of the packages, pallet (Fig. 1), a safety enclosure (90), the computer used to process an algorithm to interpret sensor data and determine the location of packages, position and path data and a variety of pre-programmed strategies.

#### **V. Response to Applicant's Arguments**

Applicant's arguments entered 10/12/06 have been fully considered.

1. With respect to claim 1, applicant, by further defining the conveyor structure as having two sections connected by a flexible joint, has distinguished over MADAY. The rejection under 35 USC 102(b) is therefore withdrawn. Upon further consideration however, a new grounds of rejection over MADAY in view of BONNET is set forth above. Since MADAY remains relevant to the new grounds of rejection applicant's remaining arguments with respect to MADAY are addressed below.
2. Applicant argues that claims 1 and 10, as amended, patentably define over MADAY because MADAY fails to disclose randomly shaped packages. This argument is not persuasive. Firstly, the randomly shaped packages to which applicant refers are set forth merely as the object of functional language describing the capabilities of the container. If the prior art container is capable of performing this function it meets the claim limitations. Since the MADAY container is capable of holding randomly shaped packages it meets the claim limitations. Secondly, the language upon which applicant relies is set forth as one element of a Markush group. To meet the claim limitations, only one member of the Markush group must be shown in the prior art. Since the Markush group recites, as an alternate element, uniformly shaped and stacked packages, the MADAY packages would meet this limitation.
3. Applicant argues that claim 16 defines over MADAY because claim 16 requires a container that can hold more than one package on a level. This argument is not persuasive. Firstly, the "more than one package on a level" to which applicant refers are set forth merely as the object of functional language describing the capabilities of the container. If the prior art container is capable of performing this function it meets the claim limitations. Since the MADAY container is capable of holding more than one package on a level it meets the claim

limitations. Additionally, even if the prior art were required to show this feature to meet the claim limitations, it is clearly shown in BONNET (Fig. 4).

4. Applicant argues that MADAY teaches away from the claimed solution of unloading packages of different shapes and orientations. This argument is not persuasive. Applicant provides no support for this argument. In order to show a prior art reference teaches away from the claimed solution applicant must show that the prior art reference in some way criticizes, discredits, or otherwise discourages the solution claimed. Since applicant makes no such assertion and none is found MADAY does in no way teaches away from non-uniform packages.

## **VI. Conclusion**

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 7:30am - 4:00pm EST.
5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG

  
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